

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MACEY E. TURLEY, JR.,

Plaintiff,

v.

ELMANTE,

Defendant.

Case No.: 1:23-cv-00596-CDB (PC)

ORDER TO SHOW CAUSE IN WRITING
WHY SANCTIONS SHOULD NOT BE
IMPOSED FOR PLAINTIFF'S FAILURE TO
FILE AN OPPOSITION OR STATEMENT OF
NON-OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

(Doc. 38)

14-DAY DEADLINE

Relevant Background

Plaintiff Macey E. Turley, Jr. ("Plaintiff") is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's Eighth Amendment claims for adverse conditions of confinement and deliberate indifference against Defendant Elmante ("Defendant"). (Docs. 1, 11).

On December 5, 2024, the Court issued the discovery and scheduling order, setting forth discovery dates and deadlines, including, relevant here, the dispositive motion deadline on October 17, 2025. (Doc. 34). On October 14, 2025, the Court granted Defendant's ex parte motion to amend the scheduling order to continue the deadline to file dispositive motions to November 7, 2025. (Doc. 37). On November 7, 2025, Defendant filed the pending motion for summary judgment, making Plaintiff's response due November 28, 2025. (Doc. 38).

Order to Show Cause

The deadline by which Plaintiff was required to respond to Defendant's motion for summary judgment has passed and Plaintiff has not filed any response, sought an extension, or otherwise explained the delinquency.

Rule 56 of the Federal Rules of Civil Procedure concerns summary judgment. It provides, in relevant part:

Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

- (1) give an opportunity to properly support or address the fact;
- (2) consider the fact undisputed for purposes of the motion;
- (3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or
- (4) issue any other appropriate order.

Fed. R. Civ. P. 56(e). This Court's Local Rules, corresponding with Federal Rule of Civil Procedure 11, provide that a "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for the imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." *See* Local Rule 110.

Further, Local Rule 230 states:

Opposition, if any to the granting of a motion shall be served and filed by the responding party not more than twenty-one (21) days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file an opposition or statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions.

Local Rule 230(*l*). Therefore, Plaintiff's opposition or statement of non-opposition to Defendant's pending motion for summary judgment was due on or before November 28, 2025, plus time for mailing (November 28, 2025, falls on a Court-designated holiday). Plaintiff has failed to timely file an opposition or statement of non-opposition, and the time to do so has now passed.

Conclusion and Order

Accordingly, the Court HEREBY ORDERS Plaintiff to show cause in writing, **within 14 days** of the date of service of this order, why sanctions should not be imposed for his failure to comply with the Local Rules. Alternatively, within that same time, Plaintiff may file an opposition or statement of non-opposition to Defendant's motion for summary judgment filed November 7, 2025 (Doc. 38).

Any failure by Plaintiff to respond to this Order will result in a recommendation to dismiss this action for failure to obey court orders and failure to prosecute.

IT IS SO ORDERED.

Dated: **December 5, 2025**


UNITED STATES MAGISTRATE JUDGE